

.1 General

If a recipient fails or refuses to participate/cooperate in the RCA program as required, the CWD shall make a cause determination.

.2 Conditions Under Which Cause Determination Shall Be Made

Using the criteria found in Section 69-208.3, the CWD shall make a cause determination within 10 working days of learning or being advised that the nonexempt refugee who is an RCA applicant or recipient has:

- .21 Failed or refused to register or participate with a CDSS-funded or CWD approved or referred employment-directed program as required; or**

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- .22 Failed or refused to register or to maintain registration with EDD as required; or
- .23 Failed or refused to meet the requirements contained in Section 69-207.11; or
- .24 Failed or refused to comply with the requirements contained in Sections 69-207.12, 69-207.16 and 69-207.17; or
- .25 Failed or refused to comply with the requirements contained in Section 69-207.22.

.3 Factors That Must Be Considered in Cause Determinations

The CWD must include the following determinations, as appropriate, in considering whether good cause exists for failure or refusal to meet or comply with requirements regarding registration, employment, and employment-directed education/training.

- .31 There must be a determination that a bona fide offer of employment or employment-directed education/training was made to the individual. A bona fide offer of employment or employment-directed education/ training may originate from any source, approved or referred by the CWD (including CDSS-funded program) or the responsible agency for the initial resettlement of the refugee and may be temporary, permanent, full-time, part-time, or seasonal work.
- .32 There must be a determination that the individual:
 - .321 Failed or refused to register or participate with a CWD approved or referred employment-directed program or the initial responsible resettlement agency, or
 - .322 Failed or refused to accept the bona fide offer of employment or employment-directed education/training as planned, or
 - .323 The individual quit or was discharged from employment or employment-directed education/training.
- .33 There must be a determination that EDD either arranged an employer interview for the refugee or requested the refugee to report to EDD.

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- .34 There must be a determination that the refugee: a) failed or refused to register or maintain registration with EDD; b) failed or refused to accept a referral to or appear for an employment interview arranged by EDD; or c) failed or refused to report to EDD when requested.
 - .35 The individual must be given an opportunity to explain why: a) the offer was not accepted; b) the employment or employment-directed education/training was discontinued; or c) he/she failed or refused to comply with the EDD registration requirements or the requirements of the education/training program.
 - .36 There must be a determination that the individual was informed of the effect the failure or refusal to accept or continue employment or employment-directed education/ training, or failure or refusal to comply with the EDD registration requirements, without good cause, will have on his/her receipt of RCA.
- .4 Good Cause for Failure or Refusal to Meet or Comply with the Registration, Employment and Employment-Directed Education/Training Requirements.

Good cause exists when:

- a. The employment-directed education/training or employment was available due directly to a bona fide strike or lockout; or
- b. The individual would be required to work for an employer contrary to the conditions of his/her existing membership in the union governing that occupation (employment not governed by the rules of a union in which the individual has membership may be deemed appropriate by the CWD); or
- c. The employment or training site violated applicable health and safety laws and regulations; or
- d. The employment or employment-directed education/training was in excess of the individual's mental or physical capacity. Any claim of adverse effect on physical or mental health shall be based on an adequate medical testimony from a physician or licensed or certified psychologist indicating that participation would impair the individual's physical or mental health; or
- e. The wage does not meet or exceed the federal or state minimum wage law, whichever is applicable; or if such laws are not applicable, the wage is less favorable than the wage normally paid for similar work in that labor market, or, in any event, is less than three-fourths of the minimum wage rate; or

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- f. The daily hours of work and the weekly hours of work exceed those customary to the occupation; or
- g. The individual had a definite offer of full-time employment (100 hours or more per month); or
- h. The individual was prevented from participating or reporting due to physical or mental incapacity; or
- i. The individual was ill or was required to care for an ill member of the assistance unit because no other care arrangements were feasible; or
- j. The total daily commuting time to the employment or educational/ training site and return, would normally exceed two hours, not including the transporting of a child to and from a child care facility, unless a longer commuting distance is generally accepted in the community, in which case the round trip commuting time shall not exceed the generally accepted community standards; or
- k. The employment or training violated laws and regulations pertaining to discrimination based on age, sex, race, religion, color, national origin, marital status, political affiliation, or handicap; or
- l. The individual had other substantial and compelling reasons for failure to meet or comply with the requirements of Section 69-207.

.5 Additional Cause Determination Interview Requirements

- .51 In each case in which information from Refugee Cash Assistance (RCA) service providers or the Central Intake Unit (CIU) appears to indicate that good cause does not exist for an RCA recipient's refusal or failure to participate in an assigned RCA educational or training component, or to accept a job offer or referral, or to conduct job search, the county welfare department (CWD) shall conduct a face-to-face interview with the individual prior to making a good cause determination.
- .52 If the RCA recipient contacts the CWD worker prior to the scheduled cause determination interview to request a rescheduling, the individual shall be permitted one rescheduling of the interview. This rescheduled interview shall take place within ten working days following the date that the CWD becomes aware of a recipient's failure to cooperate/participate, or within thirty days of the date that the recipient failed to cooperate/participate, whichever occurs first.

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.53 The CWD shall be permitted to conduct telephone interviews to accomplish the cause determination if the CWD determines it is appropriate and the recipient agrees. Language interpretation by the CWD, when necessary, shall be provided in accordance with MPP Section 21-115.

.54 If the recipient does not keep the initial or rescheduled appointment for the cause determination interview, a cause determination shall be made from available information.

.6 Renumbered to Section 69-210.2 by SDSS Manual Letter No. SP-90-01, effective 4/2/90.

.612 Repealed by SDSS Manual Letter No. SP-90-01, effective 4/2/90.

.7 If the CWD determines that the individual does not have good cause for failing or refusing to comply with program requirements, the CWD shall develop a compliance plan to correct the instance of nonparticipation prior to sanctioning the individual.

.71 The CWD and the individual will develop the plan either over the telephone or face-to-face. The individual shall be provided a copy of the plan. If the individual agrees to a compliance plan over the telephone, a copy of the plan shall be mailed to the client.

.8 If the individual does not fulfill the terms of a written compliance plan agreed upon with the CWD, and the CWD determines based on available information that the individual did not have good cause for failure to meet the terms of the plan, the CWD shall send a notice of action to impose a sanction. If a sanction is imposed under the terms of this paragraph, no further compliance procedures are applicable.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code; 45 CFR 400.83(a)(2); and Dang, et al. v. McMahon, et al., Alameda County Superior Court, No. 623839-9.